

Message Text

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PAGE 01 STATE 200353
ORIGIN EB-08

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TO AMEMBASSY MEXICO

UNCLAS STATE 200353

E.O. 11652: N/A

TAGS: EAIR, MX

SUBJECT: CIVAIR: BRANIFF REQUEST FOR OMITTING PANAMA ON
BOGOTA ROUTE

REF: STATE 197329

1. AS INDICATED REFTTEL, EMBASSY IS INSTRUCTED TO TRANSMIT
TO MINISTRY OF FOREIGN AFFAIRS DIPLOMATIC NOTE (WITH COPY
TO CENDEJAS) ALONG FOLLOWING LINES:

"...AND HAS THE HONOR TO REFER TO THE UNITED STATES-MEXICO
AIR TRANSPORT AGREEMENT OF AUGUST 15, 1960, AS AMENDED AND
EXTENDED. THE JANUARY 20, 1978 AMENDMENT TO THE AFORESAID
AGREEMENT HAS ESTABLISHED A NEW SCHEDULE OF ROUTES WHICH
EXPANDS OPPORTUNITIES FOR THE AIRLINES OF BOTH OF OUR
COUNTRIES TO THE BENEFIT OF THE TRAVELING PUBLIC, SHIPPERS,
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PAGE 02 STATE 200353

THE TRAVEL INDUSTRY, AND THE RESPECTIVE AIRLINES. BOTH THE
AFFECTED UNITED STATES AND THE MEXICAN AIRLINES HAVE EITHER
OBTAINED OR ARE IN THE PROCESS OF OBTAINING THE NECESSARY
OPERATING PERMITS TO SERVE THE NEW ROUTES.

IN THIS REGARD, BRANIFF INTERNATIONAL AIRLINES APPLIED TO
THE MEXICAN AUTHORITIES FOR THE NECESSARY PERMIT TO OPERATE

US ROUTE B.2 WHICH IS SPECIFIED AS FOLLOWS: "DALLAS/
FT. WORTH, SAN ANTONIO-MEXICO CITY, ACAPULCO, AND BEYOND TO

PANAMA AND BEYOND." THERE IS ALSO A FOOTNOTE TO THIS
ROUTE WHICH READS AS FOLLOWS: "THE DESIGNATED AIRLINE
SHALL NOT HAVE LOCAL TRAFFIC RIGHTS OR STOPOVER RIGHTS ON
NONSTOP SERVICES BETWEEN MEXICO CITY AND PANAMA UNTIL
OCTOBER 1, 1980. AFTER OCTOBER 1, 1980 THE DESIGNATED
AIRLINE SHALL NOT ADVERTISE OR SELL NONSTOP SERVICE ON A
UNITED STATES AIRLINE FOR THE CARRIAGE OF REVENUE PASSEN-
GERS WHOSE JOURNEYS ORIGINATE IN MEXICO CITY WITH A FINAL
DESTINATION IN PANAMA OR ORIGINATE IN PANAMA WITH A FINAL
DESTINATION IN MEXICO CITY. THE DESIGNATED AIRLINE WILL
NOT HAVE TRAFFIC RIGHTS BETWEEN MEXICO CITY AND VENEZUELA."

THE MEXICAN AERONAUTICAL AUTHORITIES HAVE ISSUED TO BRANIFF
INTERNATIONAL THE REQUISITE PERMIT TO OPERATE THE AFORESAID
ROUTE. HOWEVER, THE PERMIT CONTAINS A REQUIREMENT THAT
BRANIFF MAKE A MANDATORY STOP AT PANAMA ON SERVICES BEYOND
MEXICO. AS SEEN FROM THE ABOVE QUOTATIONS, THERE IS NO
REQUIREMENT IN EITHER THE ROUTE DESCRIPTION, OR THE FOOT-
NOTE, FOR A MANDATORY STOP IN PANAMA. FURTHERMORE, ANY
SUCH REQUIREMENT IS INCONSISTENT WITH PARAGRAPH 3 OF THE
ROUTE SCHEDULE WHICH PERMITS THE DESIGNATED AIRLINES
"...TO OMIT POINTS ON ANY OR ALL FLIGHTS, IN ONE OR BOTH
DIRECTIONS, PROVIDED AT LEAST ONE POINT IN THE HOMELAND OF
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PAGE 03 STATE 200353

THE AIRLINE IS SERVED ON EACH FLIGHT..."

IN REVIEWING THE NEGOTIATING HISTORY OF THE JANUARY 10,
1978 AMENDMENT, IT IS CLEAR THAT THERE WAS CONSIDERABLE
DISCUSSION REGARDING LIMITATIONS ON US OPERATING RIGHTS
BEYOND MEXICO CITY ON THE ABOVE ROUTE. IN THE COURSE OF
THESE DISCUSSIONS THE US NEGOTIATORS AGREED ONLY TO ACCEPT
THE LIMITATIONS SET FORTH IN THE FOOTNOTE CONCERNING SER-
VICE TO VENEZUELA AND TRAFFIC RIGHTS BETWEEN MEXICO AND
PANAMA. AT NO TIME WAS THERE ANY ACCEPTANCE, EITHER EX-
PLICITLY OR TACITLY, BY THE UNITED STATES DELEGATION OF
ADDITIONAL LIMITATIONS ON OPERATIONS OVER THIS ROUTE. IF
IT HAD BEEN THE INTENTION OF THE DELEGATIONS TO REQUIRE A
STOP AT PANAMA, THE LANGUAGE WOULD HAVE MADE THIS CLEAR,
AS WAS DONE WITH RESPECT TO REQUIRING INTERMEDIATE STOPS
ON ROUTES A.1, A.2, B.5, AND C.2.

AGREEMENT ON AN OVERALL EXPANDED ROUTE PACKAGE FOR BOTH
COUNTRIES WAS REACHED IN PART BECAUSE IT BECAME POSSIBLE
FOR THE UNITED STATES, IN EXCHANGE FOR GRANTING ADDITIONAL
SERVICE OPPORTUNITIES TO MEXICAN AIRLINES, TO ACQUIRE NEW
RIGHTS ON THE AFFECTED BEYOND ROUTE SEGMENT. THE ACCEP-

TANCE OF A MANDATORY NON-TRAFFIC STOP AT PANAMA WOULD HAVE
BEEN INIMICAL TO THIS EXCHANGE OF BENEFITS. MOREOVER, A
MANDATED TECHNICAL STOP WOULD BE DETRIMENTAL TO THE

EFFICIENT OPERATION OF SERVICES OVER THE ROUTE BY IMPOSING
WASTE IN FUEL AND OTHER RESOURCES ON THE AIRLINE AND BY
CAUSING DELAYS FOR THE TRAVELING PUBLIC.

THE UNITED STATES GOVERNMENT, THEREFORE, WISHES TO REGISTER
ITS DEEP CONCERN WITH THE MINISTRY OF FOREIGN AFFAIRS THAT
THE REQUIREMENT FOR A MANDATORY STOP IS BOTH CONTRARY TO
THE AIR TRANSPORT AGREEMENT AND INJURIOUS TO THE BEST
INTERESTS OF EFFICIENT AIRLINE OPERATIONS. THE EMBASSY
ACCORDINGLY REQUESTS THAT THE SAID REQUIREMENT BE CANCELLED.
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PAGE 04 STATE 200353

(COMPLIMENTARY CLOSE)" CHRISTOPHER

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